

VOLUME 12 INTERNATIONAL AVIATION**CHAPTER 3 PART 129 OPERATIONS: FOREIGN OPERATORS OF U.S. OR FOREIGN REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE****Section 5 International Civil Aviation Organization (ICAO) Article 83 Bis Leases and Interchanges****12-3-5-1 BACKGROUND.****A. Transferring State of Registry's Duties to the State of the Operator.**

1) Under international law, the State of Registry of an aircraft is responsible for overseeing the airworthiness of the aircraft (ICAO Article 31), the licensing of its flightcrew members (ICAO Article 32(a)), aircraft radio equipment (ICAO Article 30), and compliance by the operator of the aircraft with the applicable rules of the air (ICAO Article 12).

2) With the adoption of ICAO Article 83 bis, the State of Registry may, by an agreement with the State of the Operator, transfer to another State of the Operator all or part of functions and duties listed above as the State of Registry. Article 83 bis applies to an aircraft, which is operated pursuant to an arrangement for the lease, charter, or interchange of the aircraft or any similar arrangements by an operator, which has its principal place of business or residence outside the State of Registry.

B. Articles 12, 30, 31, and 32(a).

1) Article 83 bis is an umbrella provision, in which ratification does not entail the automatic transfer of functions and duties from the State of Registry to the State of the Operator. Any agreement can only cover the functions and duties attached to Articles 12, 30, 31 and 32(a) of the Convention in which may be totally or partially transferred.

2) In principle, the transfer of supervisory functions and duties normally attached to the State of Registry could render international aircraft safer, since the State of the Operator – who is an ICAO Contracting State – has direct access to the aircraft surveillance and inspection.

NOTE: ICAO's Convention, specifically Article 16, currently gives the Contracting State the right to inspect aircraft of other Contracting States within their sovereign territory.

C. Safety Compliance and Registration in the State of Registry.

1) Adoption of Article 83 bis is based on the State of Registry's possible loss of control (LOC) over the safety compliance and inability to exercise its functions and duties adequately in international operations. Article 83 bis reflects the general desire of the ICAO Contracting States to transfer certain functions normally incumbent on the State of Registry to the State of the Operator.

2) An aircraft that is subject to an Article 83 bis Agreement will continue to be registered in the State of Registry and to bear that State's registration marks. The registration certificates will be issued by the State of Registry. Moreover, Article 83 bis can be reciprocal agreements; hence, accepting aircraft from another State of Registry would make the U.S. the State of the Operator.

D. When Possible Conflicts Arise.

1) Inspectors performing ramp inspections on foreign air carriers should be aware that in some situations the provisions of an active Article 83 bis Agreement between two Civil Aviation Authorities (CAA) may permit the transfer of oversight functions under ICAO Annexes 1, 6, and 8 for aircraft on the registry.

2) In those situations where there is an appearance of conflict, the inspector should coordinate with their supervisor and contact the Flight Standards International Programs and Policy Division (AFS-50) at 202-385-8070. AFS-50 will assist in obtaining the information from ICAO in regard to the status of any active Article 83 bis Agreements between the State of the Operator and the State of Registry. AFS-50 will also provide guidance to the Federal Aviation Administration's (FAA) position in regards to such an Agreement.

3) The following describes the case of an aircraft entering another Contracting State's airspace. When the Contracting State that is not a party to Article 83 bis, or who has not been duly advised about a transfer agreement in accordance with this provision, the State of Registry should issue or render valid those certificates and licensees on board the aircraft. The State of Registry would in this case remain fully responsible with regard to Article 30, Aircraft Radio Equipment; Article 31, Certificates of Airworthiness; and Article 32, Licenses of Personnel, of the Convention despite the transfer agreement with the State of the Operator.

12-3-5-3 GENERAL AVIATION (GA) AIRCRAFT UNDER INTERNATIONAL AGREEMENT WITH IRELAND – DATED JUNE 2013.

A. Limiting Provision to the Agreement.

1) The scope of this Agreement is limited to GA aircraft on the register of civil aircraft of the United States. This Agreement has a limiting provision, which allows lease, charter, or interchange of the aircraft or any similar arrangement for a term of no more than 180 days by operators whose principal place of business is in, or who permanently reside in, Ireland.

2) The aircraft covered by this Agreement are identified by make and model, registration number, and serial number, on the list provided in Attachment 1 of this Agreement. Also, ICAO international GA operations are limited typically for aircraft under 5,700 kg (12,500 lbs.).

B. The Irish Aviation Authority (IAA). The IAA, the State of the Operator, shall inform AFS-50 prior to any aircraft subject to it being made the object of a subsidiary lease, charter, or interchange or similar arrangement. The IAA shall further inform AFS-50, if it takes certificate action against an airman operating an aircraft subject to this Agreement. In the case

where an airman holds both an Irish and FAA certificate, both Agreement partners should be notified. In situations where the airman holds only a FAA certificate, the airman will need an appropriate enforcement report to be referred to AFS-50 for formal certificate action.

C. The Need for Consultations. Consultations between the FAA and the IAA are necessary to discuss both operations and airworthiness matters from inspections that have been conducted by their respective inspectors. Consultations may be held in person, or by telephone or video conference. For the sake of enhanced safety, these consultations shall take place for the purpose of resolving any discrepancies found as a result of the inspections, and to ensure that all parties are fully informed about the aircraft operator's operations. The following subjects may be reviewed during these consultations:

- Flight operations continuing airworthiness and aircraft maintenance;
- Flight training when applicable;
- Any other significant matters arising from inspections; or
- Review of the Agreement, including addition or subtraction of aircraft to or from Attachment 1.

Attachment 1

Aircraft Subject to this Agreement

Aircraft Make/ Model	Serial Number	Registration Number	Effective term
-----------------------------	----------------------	----------------------------	-----------------------

Attachment 2

Responsibilities of the United States and Ireland

ICAO Doc	RESPONSIBILITIES OF THE STATE OF REGISTRY (United States)	RESPONSIBILITIES OF THE STATE OF THE OPERATOR (Ireland)
Annex 1		Assume State of the Registry's Licensing and Ratings as defined in Annex 1, chaps 2 and 3
Annex 2		Assume State of the Operator's responsibilities pertaining to the Rules of the Air defined in Annex 2, chaps 1, 2, and 3
Annex 6		Assume State of Operator and State of Registry responsibilities as defined in Annex 6, Parts II and III.
Annex 8	Issue airworthiness certificate.	Perform surveillance in accordance with Annex 8 – Airworthiness of Aircraft (Part II Chapter 4, 4.2.3(b) to determine the continuing airworthiness of an aircraft in relation to the appropriate airworthiness requirements in force for that aircraft.)

12-3-5-5 through 12-3-5-29 RESERVED